To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

Cc: Rhodes, Julia[Rhodes.Julia@epa.gov]

From: O'Lone, Mary

Sent: Thur 1/8/2015 6:46:44 PM Subject: Fw: REACH follow -up

My email is acting really horribly today. I am resending this b/c I am not sure it went.

Also, you all can fiddle with the language. I am not sure if anyone has blessed it — especially the messages. I am sure Lilian will want to give those the once over, but I don't think she had a chance yesterday to focus on it.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary

Sent: Thursday, January 8, 2015 1:44 PM

To: Wooden-Aguilar, Helena

Cc: Rhodes, Julia

Subject: Re: REACH follow -up

what is PPP?

Here is verbiage on the messages:

- Acceptance of a complaint for investigation means that the complaint has
 met the four basic criteria in the regulations: (1) it is in writing, (2) it alleges
 discrimination by (3) a recipient of EPA financial assistance, and (4) it is it is
 timely. It does not constitute an assessment as to the veracity of the
 allegations or represent a conclusion as to whether any Title VI violation has
 occurred.
- EPA is pursuing a number of avenues to resolve the complaint informally

including offering to facilitate ADR between NCDENR & the Complainants, while at the same time carrying out our investigative responsibilities and obligation to enforce Title VI.

Ex. 5 - Attorney Client

Later today or tomorrow, I will edit the draft letters per the info that Lilian sent (if it makes sense) & to include the link to ADR stuff that Ericka sent me.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 1:31 PM

To: O'Lone, Mary Cc: Rhodes, Julia

Subject: Re: REACH follow -up

She us developing comm plan, reactive desk statement, and I will help her doth Q/A. We will need you'd help on PPP.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 8, 2015, at 1:25 PM, "O'Lone, Mary" < OLone.Mary@epa.gov> wrote:

Are you asking are asking Jeryl to take stab at answer to whole reactive desk statement or just pinpoint provision?

I am happy to look at what she writes. I've got enough going on today.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 1:21 PM

To: Rhodes, Julia **Cc:** O'Lone, Mary

Subject: Re: REACH follow -up

Hey Mary and Julia

I wanted to take a crack but I am now running on something for V and LD now (toolkit).

Julia - I am going to ask Jeryl to take a crack at it and work with Mary. Is this ok? I am open if Mary wants to lead as well.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 8, 2015, at 1:13 PM, "Rhodes, Julia" < Rhodes. Julia@epa.gov> wrote:

What Nancy T suggested in reactive desk statement or FAQs is a response to

the question of how epa has authority over a delegated program that does not receive FFA directly.

She also expressed that Ken L will want reach out to DENR and it's counsel should a letter be issued. He would want to do this in conjunction with OCR and likely address above question as well as an acceptance not equating to finding.

Once protocol launched R4 intends to attend the first meeting jn person. They are interested in training about IP development and the investigative process as well as insight into any new policies, practices and procedures since Nancy volunteered for task force

Sent from my iPhone

On Jan 8, 2015, at 12:44 PM, "O'Lone, Mary" < OLone.Mary@epa.gov> wrote:

I agree with you.

Are you going to gin up a draft or am I?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 12:30 PM

To: O'Lone, Mary Cc: Rhodes, Julia

Subject: RE: REACH follow -up

I think the invite is coming. So, what I believe we need is a communication strategy. I think it's a combination of what the DD said to Tom R, her email, and what is in the CMP. Is this right? Or is there something else?

From: O'Lone, Mary

Sent: Thursday, January 08, 2015 12:27 PM

To: Wooden-Aguilar, Helena

Cc: Rhodes, Julia

Subject: Re: REACH follow -up

I have all the emails about this meeting, but no meeting invite yet.

Do you have time to chat? I am not sure if you are looking for a piece of paper or just the messages to share?

I have a few things that could be shared or could be edited to better fit this meeting.

I am at home -- you can call my office & it will be forwarded or you can call me directly at home Ex. 6 - Personal Privacy Thanks.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 11:59 AM

To: O'Lone, Mary **Cc:** Rhodes, Julia

Subject: RE: REACH follow -up

Mary-

I have a meeting with OCIR tomorrow (Julia has invited you). Do we have any paper we can share? I am asking Julia as well and cc'd her on this email.

Helena

From: O'Lone, Mary

Sent: Wednesday, January 07, 2015 3:55 PM

To: Dorka, Lilian; Golightly-Howell, Velveta; Packard, Elise; Wooden-

Aguilar, Helena; Rhodes, Julia

Cc: Moffa, Anthony

Subject: REACH follow -up

All-

After the meeting with Avi this morning I met with Lilian & Helena. We 3 discussed the messages I conveyed to Avi (which were ones that I developed with Lilian earlier this morning), the content of the draft acceptance letters, and a near term plan for briefings and meetings as we move forward in the coming weeks.

I agreed to edit the Earthjustice acceptance letter & draft one for NC DENR so they reflect the discussion that Lilian, Helena & I had. They are attached. I also said I would pass along the talking points that I used for Avi b/c they reflect the main points of the discussion that Lilian & I had earlier this morning. They are attached.

I also agreed to edit the draft IP to address comments Lilian had. I hope I have addressed those comments in the draft attached. The draft IP is still

a work in progress (you will see a place where I would like to insert a short description of the theories, but do not have time today as I have to leave now). I will be able to update it tomorrow.

Thanks so much & talk with you tomorrow, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

Cc: Rhodes, Julia[Rhodes.Julia@epa.gov]

From: O'Lone, Mary

Sent: Thur 1/8/2015 6:44:25 PM Subject: Re: REACH follow -up

what is PPP?

Here is verbiage on the messages:

- Acceptance of a complaint for investigation means that the complaint has
 met the four basic criteria in the regulations: (1) it is in writing, (2) it alleges
 discrimination by (3) a recipient of EPA financial assistance, and (4) it is it is
 timely. It does not constitute an assessment as to the veracity of the
 allegations or represent a conclusion as to whether any Title VI violation has
 occurred.
- EPA is pursuing a number of avenues to resolve the complaint informally including offering to facilitate ADR between NCDENR & the Complainants, while at the same time carrying out our investigative responsibilities and obligation to enforce Title VI.

Ex. 5 - Attorney Client

Later today or tomorrow, I will edit the draft letters per the info that Lilian sent (if it makes sense) & to include the link to ADR stuff that Ericka sent me.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 1:31 PM

To: O'Lone, Mary Cc: Rhodes, Julia

Subject: Re: REACH follow -up

She us developing comm plan, reactive desk statement, and I will help her doth Q/A. We will need you'd help on PPP.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 8, 2015, at 1:25 PM, "O'Lone, Mary" < OLone.Mary@epa.gov> wrote:

Are you asking are asking Jeryl to take stab at answer to whole reactive desk statement or just pinpoint provision?

I am happy to look at what she writes. I've got enough going on today.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 1:21 PM

To: Rhodes, Julia Cc: O'Lone, Mary

Subject: Re: REACH follow -up

Hey Mary and Julia

I wanted to take a crack but I am now running on something for V and LD now (toolkit).

Julia - I am going to ask Jeryl to take a crack at it and work with Mary. Is this ok? I am open if Mary wants to lead as well.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 8, 2015, at 1:13 PM, "Rhodes, Julia" < Rhodes. Julia@epa.gov> wrote:

What Nancy T suggested in reactive desk statement or FAQs is a response to the question of how epa has authority over a delegated program that does not receive FFA directly.

She also expressed that Ken L will want reach out to DENR and it's counsel should a letter be issued. He would want to do this in conjunction with OCR and likely address above question as well as an acceptance not equating to finding.

Once protocol launched R4 intends to attend the first meeting jn person. They are interested in training about IP development and the investigative process as well as insight into any new policies, practices and procedures since Nancy volunteered for task force

Sent from my iPhone

On Jan 8, 2015, at 12:44 PM, "O'Lone, Mary" < OLone. Mary@epa.gov> wrote:

I agree with you.

Are you going to gin up a draft or am I?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 12:30 PM

To: O'Lone, Mary Cc: Rhodes, Julia

Subject: RE: REACH follow -up

I think the invite is coming. So, what I believe we need is a communication strategy. I think it's a combination of what the DD said to Tom R, her email, and what is in the CMP. Is this right? Or is there something else?

From: O'Lone, Mary

Sent: Thursday, January 08, 2015 12:27 PM

To: Wooden-Aguilar, Helena

Cc: Rhodes, Julia

Subject: Re: REACH follow -up

I have all the emails about this meeting, but no meeting invite yet.

Do you have time to chat? I am not sure if you are looking for a piece of paper or just the messages to share?

I have a few things that could be shared or could be edited to better fit this meeting.

I am at home -- you can call my office & it will be forwarded or you can call me directly at hom (Ex. 6 - Personal Privacy | hanks.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Thursday, January 8, 2015 11:59 AM

To: O'Lone, Mary Cc: Rhodes, Julia

Subject: RE: REACH follow -up

Mary-

I have a meeting with OCIR tomorrow (Julia has invited you). Do we have any paper we can share? I am asking Julia as well and cc'd her on this email.

Helena

From: O'Lone, Mary

Sent: Wednesday, January 07, 2015 3:55 PM

To: Dorka, Lilian; Golightly-Howell, Velveta; Packard, Elise; Wooden-

Aguilar, Helena; Rhodes, Julia

Cc: Moffa, Anthony

Subject: REACH follow -up

All-

After the meeting with Avi this morning I met with Lilian & Helena. We 3 discussed the messages I conveyed to Avi (which were ones that I developed with Lilian earlier this morning), the content of the draft acceptance letters, and a near term plan for briefings and meetings as we move forward in the coming weeks.

I agreed to edit the Earthjustice acceptance letter & draft one for NC DENR so they reflect the discussion that Lilian, Helena & I had. They are attached. I also said I would pass along the talking points that I used for Avi b/c they reflect the main points of the discussion that Lilian & I had earlier this morning. They are attached.

I also agreed to edit the draft IP to address comments Lilian had. I hope I have addressed those comments in the draft attached. The draft IP is still a work in progress (you will see a place where I would like to insert a short description of the theories, but do not have time today as I have to leave now). I will be able to update it tomorrow.

Thanks so much & talk with you tomorrow, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: Covington, Jeryl

Sent: Thur 1/22/2015 10:09:58 PM

Subject: RE: Earthjustice-REACH Complaint: Legal Theory Analysis

Let me coordinate with him.

From: Wooden-Aguilar, Helena

Sent: Thursday, January 22, 2015 5:08 PM

To: Covington, Jeryl

Subject: Re: Earthjustice-REACH Complaint: Legal Theory Analysis

Thx. I will review.

I would like for him to present this to you, I, Jonathan via PPT and practice presenting.

Can we schedule this for next Friday?

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 22, 2015, at 3:48 PM, "Covington, Jeryl" < Covington.Jeryl@epa.gov > wrote:

Attached is an overview of the deliberate indifference legal theory background information completed by Will.

From: Yon, William

Sent: Tuesday, January 20, 2015 11:32 AM

To: Covington, Jeryl

Subject: RE: Earthjustice-REACH Complaint: Legal Theory Analysis

Hi Jeryl,

Find attached the completed memo. It is a general discussion of the theory, its elements of proof, and its application in the past federal court cases Ex. 5 - Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

Additionally, if there are any changes you'd like to see made to the memo to increase its clarity, please do not hesitate to rip it apart and let me know. I love editorial criticism because that's the best way to get to a halfway decent finished work product.

Best,

Will

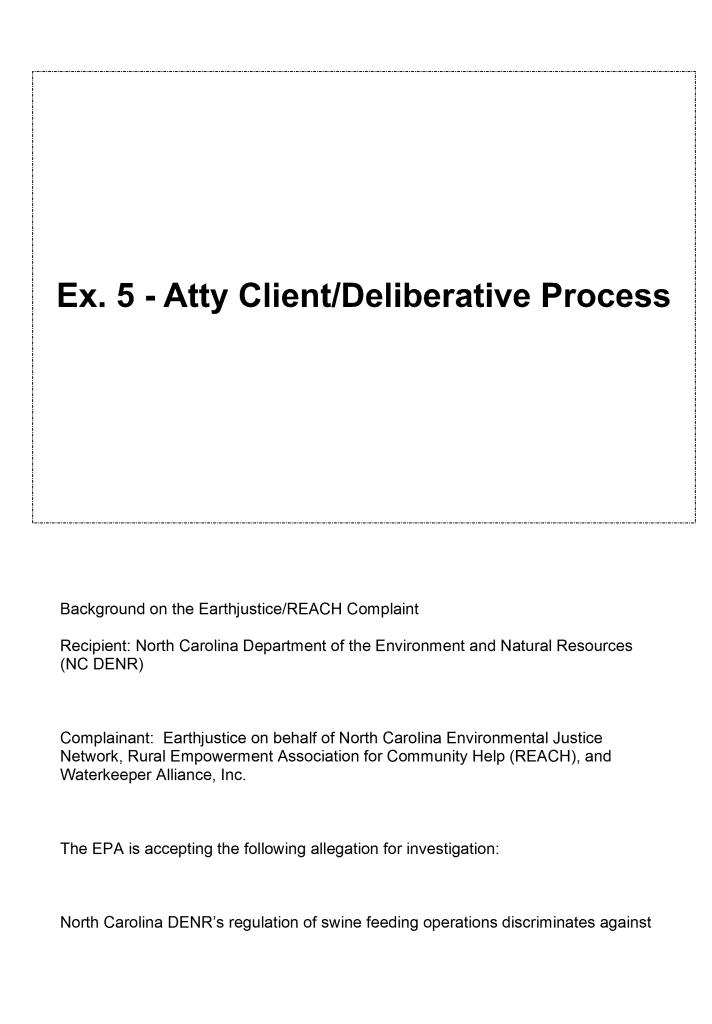
From: Covington, Jeryl

Sent: Thursday, January 08, 2015 6:41 PM

To: Yon, William

Subject: Earthjustice-REACH Complaint: Legal Theory Analysis

Ex. 5 - Atty Client/Deliberative Process



African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

The following is a portion of the comments provided by Earthjustice to NC DENR related to the general permit renewal (permit no AWG100000:

"Waste from animal facilities operating under these permits has long been a major concern for the

citizens of North Carolina and particularly for the communities of color and lowincome residents

in the eastern part of the state that are routinely subject to pollution fro these facilities.

North Carolina permits more than two thousand five hundred animal facilitie with the capacity to

raise more than 10 million swine, cattle, and poultry in confinement unde its general permit

program.1 These facilities generate a staggering amount of waste that pollutes North Carolina's

surface water, groundwater and air, and injures neighboring communities. North Carolina's general

permitting program for animal waste management systems should protect environment and these

communities from these facilities. Yet the

conditions in these permits are inadequate. On a dialy basis, these facilities expose the citizes

of North Carolina to harmful pollution.

The proposed drafts of the general permits will not improve these conditions. But for

minor technical amendments, the program that the Department of Environment and Natural Resources

("DENR") and the Division of Water Resources ("DWR") is proposing is largely the same as its

predecessors. As experience has shown, the general permitting program does not fully protect the

state's air, water, or citizens from pollution from animal facilities. Nonetheless, DENR has

proposed the same deficient program as the one that came before it. Just as troubling, the recent

consolidation of state agencies with province over animal facilities, budget cuts, and the drastic

reduction in the number of inspectors threaten to undermine DENR's ability to oversee the general

permit program. The citizens of North Carolina need stronger

permit conditions with greater accountability."

Attached is a copy of the complaint from Earthjustice to EPA.

I will touch base with you on Monday and provide additional informatin or clarity as needed; and discuss completion schedules with you.

<Deliberate Indifference Memo.docx>

To: Covington, Jeryl[Covington.Jeryl@epa.gov]

From: Wooden-Aguilar, Helena Sent: Thur 1/22/2015 10:07:56 PM

Subject: Re: Earthjustice-REACH Complaint: Legal Theory Analysis

Thx. I will review.

I would like for him to present this to you, I, Jonathan via PPT and practice presenting.

Can we schedule this for next Friday?

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 22, 2015, at 3:48 PM, "Covington, Jeryl" < Covington. Jeryl@epa.gov > wrote:

Attached is an overview of the deliberate indifference legal theory background information completed by Will.

From: Yon, William

Sent: Tuesday, January 20, 2015 11:32 AM

To: Covington, Jeryl

Subject: RE: Earthjustice-REACH Complaint: Legal Theory Analysis

Hi Jeryl,

Find attached the completed memo. It is a general discussion of the theory, its elements of proof, and its application in the past federal court cases. Ex. 5 - Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

	Additionally, if there are any changes you'd like to see made to the memo to increase its clarity, please do not hesitate to rip it apart and let me know. I love editorial criticism because that's the best way to get to a halfway decent finished work product.
	Best,
	Will
	From: Covington, Jeryl Sent: Thursday, January 08, 2015 6:41 PM To: Yon, William Subject: Earthjustice-REACH Complaint: Legal Theory Analysis
Ex.	5 - Atty Client/Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

Background on the Earthjustice/REACH Complaint

Recipient: North Carolina Department of the Environment and Natural Resources (NC DENR)

Complainant: Earthjustice on behalf of North Carolina Environmental Justice Network, Rural Empowerment Association for Community Help (REACH), and Waterkeeper Alliance, Inc.

The EPA is accepting the following allegation for investigation:

North Carolina DENR's regulation of swine feeding operations discriminates against African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

The following is a portion of the comments provided by Earthjustice to NC DENR related to the general permit renewal (permit no AWG100000:

"Waste from animal facilities operating under these permits has long been a major concern for the

citizens of North Carolina and particularly for the communities of color and lowincome residents

in the eastern part of the state that are routinely subject to pollution fro these facilities.

North Carolina permits more than two thousand five hundred animal facilitie with the capacity to

raise more than 10 million swine, cattle, and poultry in confinement unde its general permit

program.1 These facilities generate a staggering amount of waste that pollutes North Carolina's

surface water, groundwater and air, and injures neighboring communities. North Carolina's general

permitting program for animal waste management systems should protect environment and these

communities from these facilities. Yet the

conditions in these permits are inadequate. On a dialy basis, these facilities expose the citizes

of North Carolina to harmful pollution.

The proposed drafts of the general permits will not improve these conditions. But for

minor technical amendments, the program that the Department of Environment and Natural Resources

("DENR") and the Division of Water Resources ("DWR") is proposing is largely the same as its

predecessors. As experience has shown, the general permitting program does not fully protect the

state's air, water, or citizens from pollution from animal facilities. Nonetheless, DENR has

proposed the same deficient program as the one that came before it. Just as troubling, the recent

consolidation of state agencies with province over animal facilities, budget cuts, and the drastic

reduction in the number of inspectors threaten to undermine DENR's ability to oversee the general

permit program. The citizens of North Carolina need stronger

Attached is a copy of the complaint from Earthjustice to EPA.	
will touch base with you on Monday and provide additional informatin or clarity as needed; and discuss completion schedules with you.	
<deliberate indifference="" memo.docx=""></deliberate>	

permit conditions with greater accountability."

To: Helena Wooden-Aguilar[woodenaguilar33@gmail.com]

From: Wooden-Aguilar, Helena Sent: Thur 1/22/2015 10:06:20 PM

Subject: Fwd: Earthjustice-REACH Complaint: Legal Theory Analysis

Deliberate Indifference Memo.docx

ATT00001.htm

FYI.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: "Covington, Jeryl" < Covington.Jeryl@epa.gov>

Date: January 22, 2015 at 3:48:29 PM EST

To: "Wooden-Aguilar, Helena" < <u>Wooden-Aguilar, Helena@epa.gov</u>>

Subject: FW: Earthjustice-REACH Complaint: Legal Theory Analysis

Attached is an overview of the deliberate indifference legal theory background information completed by Will.

From: Yon, William

Sent: Tuesday, January 20, 2015 11:32 AM

To: Covington, Jeryl

Subject: RE: Earthjustice-REACH Complaint: Legal Theory Analysis

Hi Jeryl,

Find attached the completed memo. It is a general discussion of the theory its elements of proof, and its application in the past federal court cases Ex. 5 - Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

Atty Client Deliberative

Additionally, if there are any changes you'd like to see made to the memo to increase its clarity, please do not hesitate to rip it apart and let me know. I love editorial criticism because that's the best way to get to a halfway decent finished work product.

Best,

Will

From: Covington, Jeryl

Sent: Thursday, January 08, 2015 6:41 PM

To: Yon, William

Subject: Earthjustice-REACH Complaint: Legal Theory Analysis

Atty Client Deliberative

Ex. 5 - Atty Client/Deliberative Process

Background on the Earthjustice/REACH Complaint

Recipient: North Carolina Department of the Environment and Natural Resources (NC DENR)

Complainant: Earthjustice on behalf of North Carolina Environmental Justice Network, Rural Empowerment Association for Community Help (REACH), and Waterkeeper Alliance, Inc.

The EPA is accepting the following allegation for investigation:

North Carolina DENR's regulation of swine feeding operations discriminates against African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

The following is a portion of the comments provided by Earthjustice to NC DENR related to the general permit renewal (permit no AWG100000:

"Waste from animal facilities operating under these permits has long been a major concern for the

citizens of North Carolina and particularly for the communities of color and lowincome residents

in the eastern part of the state that are routinely subject to pollution fro these facilities.

North Carolina permits more than two thousand five hundred animal facilitie with the capacity to

raise more than 10 million swine, cattle, and poultry in confinement unde its general permit

program.1 These facilities generate a staggering amount of waste that pollutes North Carolina's

surface water, groundwater and air, and injures neighboring communities. North Carolina's general

permitting program for animal waste management systems should protect environment and these

communities from these facilities. Yet the

conditions in these permits are inadequate. On a dialy basis, these facilities expose the citizes

of North Carolina to harmful pollution.

The proposed drafts of the general permits will not improve these conditions. But for

minor technical amendments, the program that the Department of Environment and Natural Resources

("DENR") and the Division of Water Resources ("DWR") is proposing is largely the same as its

predecessors. As experience has shown, the general permitting program does not fully protect the

state's air, water, or citizens from pollution from animal facilities. Nonetheless, DENR has

proposed the same deficient program as the one that came before it. Just as troubling, the recent

consolidation of state agencies with province over animal facilities, budget cuts, and the drastic

reduction in the number of inspectors threaten to undermine DENR's ability to oversee the general

permit program. The citizens of North Carolina need stronger permit conditions with greater accountability."

Attached is a copy of the complaint from Earthjustice to EPA.

I will touch base with you on Monday and provide additional informatin or clarity as needed; and discuss completion schedules with you.

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: Covington, Jeryl

Sent: Thur 1/22/2015 8:48:29 PM

Subject: FW: Earthjustice-REACH Complaint: Legal Theory Analysis

Deliberate Indifference Memo.docx

Attached is an overview of the deliberate indifference legal theory background information completed by Will.

From: Yon, William

Sent: Tuesday, January 20, 2015 11:32 AM

To: Covington, Jeryl

Subject: RE: Earthjustice-REACH Complaint: Legal Theory Analysis

Hi Jeryl,

Find attached the completed memo. It is a general discussion of the theory, its elements of proof, and its application in the past federal court cases. Ex. 5 - Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

Additionally, if there are any changes you'd like to see made to the memo to increase its clarity, please do not hesitate to rip it apart and let me know. I love editorial criticism because that's the best way to get to a halfway decent finished work product.

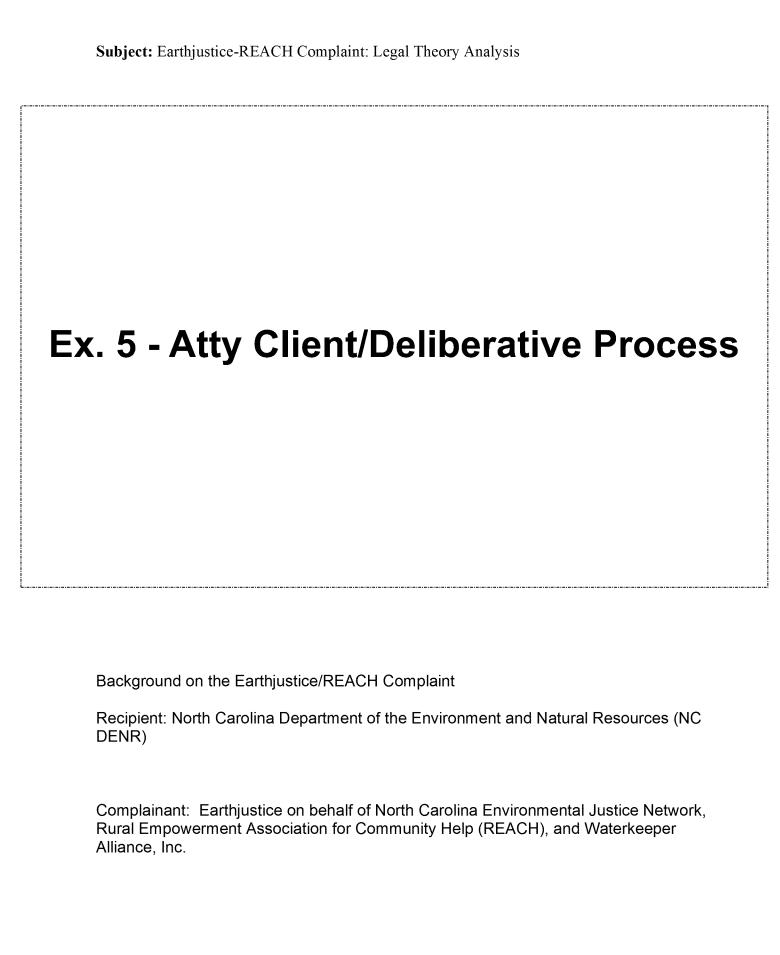
Best,

Will

From: Covington, Jeryl

Sent: Thursday, January 08, 2015 6:41 PM

To: Yon, William



The EPA is accepting the following allegation for investigation:

North Carolina DENR's regulation of swine feeding operations discriminates against African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

The following is a portion of the comments provided by Earthjustice to NC DENR related to the general permit renewal (permit no AWG100000:

"Waste from animal facilities operating under these permits has long been a major concern for the

citizens of North Carolina and particularly for the communities of color and low-income residents

in the eastern part of the state that are routinely subject to pollution fro these facilities.

North Carolina permits more than two thousand five hundred animal facilitie with the capacity to

raise more than 10 million swine, cattle, and poultry in confinement unde its general permit

program.1 These facilities generate a staggering amount of waste that pollutes North Carolina's

surface water, groundwater and air, and injures neighboring communities. North Carolina's general

permitting program for animal waste management systems should protect environment and these

communities from these facilities. Yet the

conditions in these permits are inadequate. On a dialy basis, these facilities expose the citizes

of North Carolina to harmful pollution.

The proposed drafts of the general permits will not improve these conditions. But for minor technical amendments, the program that the Department of Environment and Natural Resources

("DENR") and the Division of Water Resources ("DWR") is proposing is largely the same as its

predecessors. As experience has shown, the general permitting program does not fully protect the

state's air, water, or citizens from pollution from animal facilities. Nonetheless, DENR has

proposed the same deficient program as the one that came before it. Just as troubling, the recent

consolidation of state agencies with province over animal facilities, budget cuts, and the drastic

reduction in the number of inspectors threaten to undermine DENR's ability to oversee the general

permit program. The citizens of North Carolina need stronger

permit conditions with greater accountability."

Attached is a copy of the complaint from Earthjustice to EPA.

I will touch base with you on Monday and provide additional informatin or clarity as needed; and discuss completion schedules with you.

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: O'Lone, Mary

Sent: Mon 3/2/2015 3:05:51 PM

Subject: Re: What date does OCR use for the JR failure to take enforcement allegations?

now wasn't that easy.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Monday, March 2, 2015 9:47 AM

To: O'Lone, Mary

Cc: Moffa, Anthony; Isales, Daniel; Covington, Jeryl; Farrell, Ericka; Johnson, Johahna; Rhodes, Julia

Subject: Re: What date does OCR use for the JR failure to take enforcement allegations?

Ok.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Mar 2, 2015, at 9:27 AM, "O'Lone, Mary" < OLone.Mary@epa.gov > wrote:

So in light of Marianne's recent email, looks like you can now ignore the whole question.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary

Sent: Thursday, February 26, 2015 3:37 PM

To: Wooden-Aguilar, Helena

Cc: Moffa, Anthony; Isales, Daniel; Covington, Jeryl; Farrell, Ericka; Johnson, Johahna; Rhodes, Julia

Subject: RE: What date does OCR use for the JR failure to take enforcement allegations?

My question still stands as to how we handle the complete failure to act.

Ignore all my thoughts about the federal court litigation. Anthony has completed his crosswalk. He looked through the exhibits and none of the names in the litigation overlap.

Ex. 5 - Attorney Client

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary

Sent: Thursday, February 26, 2015 12:58 PM

To: Wooden-Aguilar, Helena

Cc: Moffa, Anthony; Isales, Daniel; Covington, Jeryl; Farrell, Ericka; Johnson, Johahna;

Rhodes, Julia

Subject: RE: What date does OCR use for the JR failure to take enforcement allegations?

Cripes, I should have read the litigation a bit closer – NC DENR did issue some NOVs for issues raised by the plaintiffs.

Ex. 5 - Attorney Client

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary

Sent: Thursday, February 26, 2015 12:50 PM

To: Wooden-Aguilar, Helena

Cc: Moffa, Anthony; Isales, Daniel; Covington, Jeryl; Farrell, Ericka; Johnson, Johahna;

Rhodes, Julia

Subject: RE: What date does OCR use for the JR failure to take enforcement allegations?

Sorry, I made a misstatement about the litigation. It is federal court & apparently a reprise of some state court litigation.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: O'Lone, Mary

Sent: Thursday, February 26, 2015 12:47 PM

To: Wooden-Aguilar, Helena

Cc: Moffa, Anthony; Isales, Daniel; Covington, Jeryl; Farrell, Ericka; Johnson, Johahna;

Rhodes, Julia

Subject: What date does OCR use for the JR failure to take enforcement allegations?

Helena & all-

I am thinking we should all be clear on what OCR looks to as the timely act in advance of any submission from Earthjustice. Johahna looked at the DEN cases she has to see how it was articulated. In one it was the date that MCAQD entered into a penalty settlement with Fisher Sand & Gravel. In the other, it was the date that the FDEP proposed a small fine in response to the dumping in the San Sebastian River, but imposed no fine for dumping in the Maria Sanchez Lake.

Ex. 5 - Attorney Client

FYI, as I was googling yesterday I came some NC state court litigation against swine farms (not NC DENR) filed relatively recently. This article leads you to the litigation - http://www.ncpolicywatch.com/2014/09/10/battle-over-hog-farm-pollution-escalates-as-groups-accuse-state-of-environmental-racism/

The plaintiffs identify several alleged permit violations

Ex. 5 - Atty Client/Deliberative Process

Ex. 5 - Atty Client/Deliberative Process

Ex. 5 - Attorney Client

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: O'Lone, Mary

Sent: Mon 3/9/2015 4:04:34 PM

Subject: Fw: Question about REACH ADR

Does Will know he's supposed to reach out to both sides this week? Will wasn't ccd on V's email to Van der Vaar, so you might want to let him know just in case he wasn't clear

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Hall, William

Sent: Monday, March 9, 2015 9:24 AM

To: O'Lone, Mary

Cc: Wooden-Aguilar, Helena

Subject: RE: Question about REACH ADR

My advice is that it would definitely be a negative to send the RFI letter at this point. It would send confusing signals to the recipient, to whom the ADR option was just presented and who responded positively.

Will

William E. Hall, Ph.D.

Conflict Prevention and Resolution Center U.S. Environmental Protection Agency "Making Agreement Easier" | (202) 564-0214 http://intranet.epa.gov/adr or http://www.epa.gov/adr

From: O'Lone, Mary

Sent: Friday, March 06, 2015 9:07 AM

To: Hall, William

Cc: Wooden-Aguilar, Helena

Subject: Question about REACH ADR

Will-

At the staff level, OCR's draft request for information to NC DENR is ready to go out.

Ex. 5 - Attorney Client

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

To: Rhodes, Julia[Rhodes.Julia@epa.gov]

From: Wooden-Aguilar, Helena Sent: Sat 3/7/2015 3:02:50 AM

Subject: Fwd: To Do List from Today's REACH Meeting

FYI

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: "Golightly-Howell, Velveta" < Golightly-Howell. Velveta@epa.gov >

Date: March 6, 2015 at 9:46:50 PM EST

To: "Matthew, Dayna" < Matthew.Dayna@epa.gov>

Cc: "Wooden-Aguilar, Helena" < Wooden-Aguilar. Helena@epa.gov >, "Martinez, Brittany"

< Martinez.Brittany@epa.gov>, "O'Lone, Mary" < o'lone.mary@epa.gov>

Subject: Re: To Do List from Today's REACH Meeting

Haven't received RFIs. If they're ready, you can forward to GWEN and John for their info and any input that they have while sharing what I told GWEN today. That is, it'll good on the ADR front and we want to be ready to issue the RFIs in the event ADR isn't a go. Thanks. Velveta

Sent from my iPhone

On Mar 6, 2015, at 3:05 PM, Matthew, Dayna < Matthew. Dayna@epa.gov > wrote:

All.

This is the "to-do" list from today's meeting. Please let me know if I've missed or mistaken anything below. It was my error not to invite Brittany to meeting – she is Acting today for Helena. I'm still learning. Thanks very much

1. Clarification Letters To Parties Erika will send draft for Mary and

Anthony. After review they will send to VGH to sign today

- 2. Email to John and Don Mary will revise to reflect Marianne's response re willingness on ODR and VGH will send today
- 3. ADR Discussions with Parties During VGH and LD leaves next week, Will Hall will discuss ADR with parties
- 4. RFIs VGH will send to John and Gwen to review in the event they are needed
- 5. Requests to Complainants Mary/ Anthony will work w/ Helena to determine scope and to get request ready if needed
- 6. Administrative Closure Pathway Mary/Anthony will help Dayna get checklist. Erika and Dayna will report at Wednesday mtg.
- 7. USDA Funding Erika will check with Grants Office to determine whether NC DENR is USDA grant recipient

Dayna

Dayna Bowen Matthew

Senior Advisor to Director Office of Civil Rights

Environmental Protection Agency

1200 Pennsylania Avenue, NW

Room 2524B

Washington, D.C. 20460

Tel: 202-564-9621

To: Hall, William[Hall.William@epa.gov]

From: Wooden-Aguilar, Helena Sent: Fri 5/29/2015 9:43:56 PM

Subject: Fwd: REACH: EPA File No.: 11R-14-r4

FYI only. We will be reaching out to you soon for your advice.

Helena Wooden-Aguilar
Assistant Director
US Environmental Protection Agency
202-564-0792 (office)
Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: "Golightly-Howell, Velveta" < Golightly-Howell. Velveta@epa.gov>

Date: May 29, 2015 at 5:39:06 PM EDT

To: "Matthew, Dayna" < Matthew. Dayna@epa.gov>

Cc: "Rhodes, Julia" < Rhodes. Julia@epa.gov >, "Wooden-Aguilar, Helena" < Wooden-Aguilar. Helena@epa.gov >, "Moffa, Anthony" < Moffa. Anthony@epa.gov >, "Covington, Jeryl" < Covington. Jeryl@epa.gov >, "Farrell, Ericka" < Farrell. Ericka@epa.gov >, "O'Lone, Mary" < o'lone.mary@epa.gov >, "Dorka, Lilian" < Dorka. Lilian@epa.gov >, "Hall, William" < Hall. William@epa.gov >

Subject: Re: REACH: EPA File No.: 11R-14-r4

Proceeding is fine with me as long as Will doesn't view doing so as affecting the spirit or integrity of ADR. As you know, REACH is OCR's foray into ADR in quite some time, the process has rarely been used by OCR and we're working hard to build and strengthen relationships with OCR's myriad of stakeholders. Please let me know when Alan has been consulted and his response. Thanks.

Velveta

Sent from my iPhone

On May 29, 2015, at 11:38 AM, Matthew, Dayna < Matthew. Dayna@epa.gov > wrote:

A11,

With Julia's response in mind, I have a few thoughts to share. I recommend we conduct the interview for at least the following three reasons.

Ex. 5 - Deliberative Process

Finally, if we decide to go forward, although I'm clearly not the best person to conduct the interview, I volunteer to drive to do so if we cannot identify another member of the staff because I frequently drive to North Carolina on the weekend to visit my children who there.

Thoughts?

Dayna

From: Rhodes, Julia

Sent: Thursday, May 28, 2015 7:31 AM

To: Golightly-Howell, Velveta

Cc: Wooden-Aguilar, Helena; Moffa, Anthony; Covington, Jeryl; Farrell, Ericka;

O'Lone, Mary; Dorka, Lilian; Matthew, Dayna; Hall, William

Subject: Re: REACH: EPA File No.: 11R-14-r4

Hi. From a civil rights perspective the decision to put the investigation into abeyance was not a legal requirement but a prudent use of enforcement discretion when resources are limited.

Sent from my iPhone

On May 27, 2015, at 5:20 PM, Golightly-Howell, Velveta < Golightly-Howell. Velveta@epa.gov> wrote:

Thanks Helena. Julia, what's CRFLO's legal advice re: conducting the requested interview while the parties are in ADR?

Velveta

From: Wooden-Aguilar, Helena

Sent: Wednesday, May 27, 2015 2:09 PM

To: Golightly-Howell, Velveta; Dorka, Lilian; Rhodes, Julia

Cc: Moffa, Anthony; Covington, Jeryl; Farrell, Ericka; O'Lone, Mary

Subject: FW: EPA File No.: 11R-14-r4

All-

I have just received this email below. Thoughts?

Helena

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]

Sent: Wednesday, May 27, 2015 1:11 PM To: Wooden-Aguilar, Helena Subject: EPA File No.: 11R-14-r4

Dear Helena,

Marianne Engelman Lado

I'm writing with regard to EPA File No. 11R-14-R4, a complaint under Title VI of the Civil Rights Act of 1964 filed on behalf of the North Carolina Environmental Justice Network, REACH and the Waterkeeper Alliance, Inc. As you know, the case has been referred to alternative dispute resolution and we are pursuing this approach. We understand that EPA's investigation is put "on hold" during this process, see http://www.epa.gov/civilrights/faq-adrt6.htm, but complainants request that the Office of Civil Rights might interview Ex.6-Personal Privacy in the interim given significant and extenuating circumstances.

As you know, Dr. Wing and one of his graduate students, Jill Johnston, submitted a report and disproportionality analysis that was attached to the complaint. He is also an epidemiologist who has expertise on the impacts of CAFOs on people living and going to school in proximity to the facilities, and also on the disproportionate impacts on the basis of race. **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy

can accommodate his schedule and arrange an interview, even if the investigation is on hold.

I look forward to your response.		
Best,		
Marianne		

Managing Attorney, Northeast Office

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org

<image001.gif>

The information contained in this email message may be privileged, confidential and protected from disclosure.

If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: Peterson, Samuel

Sent: Mon 10/20/2014 9:08:59 PM

Subject: RE: CMS New Assignment - Sheryl Mason - AX-14-001-4570

Helena,

This complaint from Earth Justice concerns permitting issued by NCDENR to allow industrial swine facilities in NC (unjustified disproportionate impact on native American and Latino American communities. It was received on September 3, 2014 and assigned to Paul

Turkevich and Ericka. The current status per the current Work Plan, 10/14/2014 is, "Draft acceptance letter sent to OCR Director for review and signature on 9/19"

Regards,

Samuel Peterson,

Equal Opportunity Investigator

U.S. Environmental Protection Agency

Office of Civil Rights - External Compliance

1200 Pennsylvania Avenue, N.W.

Mail Code 1201A

Washington, DC 20460

(202) 564-5393

peterson.samuel@epa.gov

From: Wooden-Aguilar, Helena

Sent: Monday, October 20, 2014 3:49 PM

To: Peterson, Samuel Subject: RE: CMS New Assignment - Sheryl Mason - AX-14-001-4570 Sam -What is the status? Helena From: Wooden-Aguilar, Helena Sent: Monday, September 08, 2014 6:47 PM To: Peterson, Samuel Cc: Mason, Sheryl Subject: Fwd: CMS New Assignment - Sheryl Mason - AX-14-001-4570 Sam This is assigned to you. Please send me a draft by Friday. Thanks Helena Helena Wooden-Aguilar **Acting Deputy Director** Office of Civil Rights - US EPA

Ex. 6 - Personal Privacy

202-564-0792 (office)

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: < cmsadmin@epa.gov>

Date: September 8, 2014 at 4:56:03 PM EDT

To: < wooden-aguilar.helena@epa.gov>

Subject: CMS New Assignment - Sheryl Mason - AX-14-001-4570

Control AX-14-001-4570 has been assigned to you on 9/8/14 4:56 PM by Sheryl Mason. Please go to the CMS webpage to view the details of the control.

Summary Information -

Control Number: AX-14-001-4570

Control Subject: DRF - Daily Reading File - Complaint Under Title VI of the Civil Rights

Act of 1964, 42 U.S.C. 2000d, 40 C.F.R. Part 7

From: D'Ambrosio, Jocelyn; Lado, Marianne Engelman

Note: This Email was automatically generated. Please do not attempt to respond to it. You can access this control at https://cms.epa.gov/cms. Questions or comments concerning CMS should be directed to CMS Support at 202-564-4985 or CMS Information@epa.gov.

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]

From: O'Lone, Mary

Sent: Tue 9/23/2014 5:34:51 PM

Subject: RE: Pre meeting for DOJ mtg on REACH compaint

OK great.

Mary O'Lone Civil Rights and Finance Law Office Office of General Counsel US EPA 1200 Pennsylvania Avenue, NW Washington, DC 20460 (202) 564-4992

----Original Message-----From: Wooden-Aguilar, Helena

Sent: Tuesday, September 23, 2014 1:34 PM

To: O'Lone, Mary

Subject: RE: Pre meeting for DOJ mtg on REACH compaint

Ericka is working on responding to your email but the short answer is no. We don't send that information to the Recipient unless asked and then its FOIA.

So we are only sending the redacted complaint and Ericka is sending that along for your colleague to review.

----Original Message-----From: O'Lone, Mary

Sent: Tuesday, September 23, 2014 1:33 PM

To: Wooden-Aguilar, Helena

Subject: RE: Pre meeting for DOJ mtg on REACH compaint

You planning on sending the exhibits along with the redacted complaint when you send out the JR letter to NCDENR?

If so, GLO will need some time to review your proposed redactions.

Mary O'Lone Civil Rights and Finance Law Office Office of General Counsel US EPA 1200 Pennsylvania Avenue, NW Washington, DC 20460 (202) 564-4992

-----Original Message-----From: Wooden-Aguilar, Helena

Sent: Tuesday, September 23, 2014 1:31 PM

To: O'Lone, Mary

Cc: Rhodes, Julia; Covington, Jeryl; Farrell, Ericka

Subject: RE: Pre meeting for DOJ mtg on REACH compaint

Ericka is checking.

----Original Message----

From: O'Lone, Mary

Sent: Tuesday, September 23, 2014 1:14 PM

To: Wooden-Aguilar, Helena

Cc: Rhodes, Julia; Covington, Jeryl; Farrell, Ericka

Subject: RE: Pre meeting for DOJ mtg on REACH compaint

Ok, but we have a 3 pm. Maybe we use the second Privacy conference call line so we don't lose time walking. Is that line free at 2:30?

Mary O'Lone Civil Rights and Finance Law Office Office of General Counsel US EPA 1200 Pennsylvania Avenue, NW Washington, DC 20460 (202) 564-4992

----Original Message-----

From: Wooden-Aguilar, Helena

Sent: Tuesday, September 23, 2014 1:05 PM

To: O'Lone, Mary

Cc: Rhodes, Julia; Covington, Jeryl; Farrell, Ericka

Subject: Re: Pre meeting for DOJ mtg on REACH compaint

I can do 2:35 pm.

Helena Wooden-Aguilar Assistant Director External Civil Rights - US EPA 202-564-0792 (office) Ex. 6 - Personal Privacy

vroodem-aganar:neiema@epa.gov

- > On Sep 23, 2014, at 12:44 PM, "O'Lone, Mary" <OLone.Mary@epa.gov> wrote:
- >
- > Helena can you do this time?
- > We have Ethan at 3 & I think there is a Velveta pre-meeting for the DCRO meeting at 4
- > We can try to get on V's calendar tomorrow for this after our pre-meeting.
- >
- > <meeting.ics>